

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 1 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH TAX

Versus

K S LOKHANDWALA FAMILY TRUST

Appearance:

1. WEALTH TAX REFERENCE No. 1 of 1996
MR BB NAIK with MR MANISH R BHATT for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 08/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference under Section 27(1) of the Wealth-tax Act, 1957, the Income-tax Appellate Tribunal, Ahmedabad Bench has referred the following question for our opinion in respect of assessment years 1981-82, 1983-84 to 1986-87 :-

"Whether the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to assess the wealth of the assessee trust in its hands on substantive basis ?"

2. We have heard Mr BB Naik, learned counsel for the revenue. Though served, none appears for the respondent-assessee.

3. In a reference being Income-tax Reference No. 165 of 1995 decided by us on 7.11.2001, the controversy under the Income-tax Act, 1961 was whether the income arising from the assets which were transferred, had to be taxed in the hands of the assessee trust on a substantive basis or on a protective basis. For the reasons stated in the said order, we have declined to answer the question referred to us and directed the Tribunal to decide the matter afresh after ascertain proper facts.

4. The Tribunal has merely followed its own order in Income-tax proceedings. In view of this situation, once for the purpose of income-tax in relation to transfer of the same assets, the matter is restored to the Tribunal, the wealth-tax reference should follow suit. We, therefore, decline to answer the question referred to us in the present reference and the Tribunal shall decide the wealth-tax matter after rendering its decision in the income-tax matter for the same assessment years.

5. The reference is disposed of accordingly with no order as to costs.

(M.S. Shah, J.) (D.A. Mehta, J.)
sundar/-